

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAMES A. NEWSON

Petitioner,

v.

Case No. 06-C-393

WARDEN GERALD A. BERGE,

Respondent.

ORDER ON THE HABEAS CORPUS PETITION

James A. Newson (“Newson”), is a prisoner incarcerated pursuant to a Wisconsin state court judgment. Proceeding pro se, he seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Under Rule 4 Rule of the Rules Governing Section 2254 Cases, this court must make a preliminary examination of the petition. If the court finds that “it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in district court, the judge shall make an order for its summary dismissal.” Rule 4, Rules Governing Section 2254 Cases.

Newson submitted his initial petition but failed to use the Eastern District of Wisconsin Local Form entitled “Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 by a Person in State Custody.” Because it was unclear whether he had exhausted his state remedies, Newson was ordered to file an amended petition using the form. Newson submitted an amended petition along with a motion to hold the petition in abeyance as he pursued state remedies, but he again failed to use the local form. However, he submitted the decision of the Wisconsin Court of Appeals and provided additional information that sufficiently clarified Newson’s petition. In Newson’s amended petition he

alleges ineffective assistance of counsel as his single basis for relief. From a review of the petition, the court cannot say that it plainly appears that the petitioner is not entitled to relief. Therefore, the state will be required to answer the petition. In doing so, the respondent should address the issues of timeliness, exhaustion, and procedural default, if applicable.

IT IS THEREFORE ORDERED that a copy of Newson's petition and this order shall be served upon the respondent by service upon the State of Wisconsin Attorney General.

IT IS FURTHER ORDERED that the respondent shall answer the petition within **30 days** after service of the petition.

The petitioner is hereby notified that, from now on, he is required, under Fed. R. Civ. P. 5(a) to send a copy of every paper or document filed with the court to the respondent or his attorney. The petitioner should also retain a personal copy of each document. If the petitioner does not have access to a photocopy machine, the petitioner may send out identical handwritten or typed copies of any documents. The court may disregard any papers which do not indicate that a copy has been sent to the respondent or her attorney.

In addition, the parties must notify the Clerk's Office of any change of address. Failure to do so could result in orders or other information not being timely delivered, thus affecting the legal rights of the parties.

Dated at Milwaukee, Wisconsin, this 12th day of June, 2006.

s/AARON E. GOODSTEIN
United States Magistrate Judge